

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re

NELLSON NUTRACEUTICAL,
INC., *et al.*,

Debtors.

Chapter 11

Case Number 06-10072 (CSS)
Jointly Administered

THE UNITED STATES TRUSTEE'S DESIGNATION OF ITEMS
TO BE INCLUDED IN THE RECORD ON APPEAL AND
STATEMENT OF THE ISSUE TO BE PRESENTED
(RELATED TO DOCKET ENTRY # 482)

Pursuant to Federal Rule of Bankruptcy Procedure 8006, Kelly Beaudin Stapleton, United States Trustee for Region 3 ("UST"), by and through her counsel, submits the following:

A. Designation of Items to Be Included in the Record on Appeal (Note: Number in parentheses is the number assigned to the item on the Bankruptcy Court's docket); **[Bolded Number in Brackets is the Trial Exhibit Number for the item]**.

1. Debtor, Nellson Nutraceutical, Inc.'s Schedules of Assets and Liabilities, filed 2/28/06 (139);
2. Debtor, Nellson Nutraceutical, Inc.'s Statement of Financial Affairs, filed 2/28/06 (140, 147);
3. Debtor, Nellson Intermediate Holdings, Inc.'s Schedules of Assets and Liabilities, filed 2/28/06 (4 in Bankr. Case No. 06-10074 (CSS));
4. Debtor, Nellson Intermediate Holdings, Inc.'s Statement of Financial Affairs, filed 2/28/06 (5 in Bankr. Case No. 06-10074 (CSS));
5. Debtor, Nellson Holdings, Inc.'s Schedules of Assets and Liabilities, filed 2/28/06 (4 in Bankr. Case No. 06-10073 (CSS));
6. Debtor, Nellson Holdings, Inc.'s Statement of Financial Affairs, filed 2/28/06 (5 in Bankr. Case No. 06-10073 (CSS));

7. Debtor, Nellson Northern Operating, Inc.'s Schedules of Assets and Liabilities, filed 2/28/06 (4 in Bankr. Case No. 06-10075 (CSS));
8. Debtor, Nellson Northern Operating, Inc.'s Statement of Financial Affairs, filed 2/28/06 (5 in Bankr. Case No. 06-10075 (CSS));
9. Debtor, Nellson Nutraceutical Eastern Division, Inc.'s Schedules of Assets and Liabilities, filed 2/28/06 (4 in Bankr. Case No. 06-10076 (CSS));
10. Debtor, Nellson Nutraceutical Eastern Division, Inc.'s Statement of Financial Affairs, filed 2/28/06 (5 in Bankr. Case No. 06-10076 (CSS));
11. Debtor, Nellson Nutraceutical Powder Division, Inc.'s Schedules of Assets and Liabilities, filed 2/28/06 (4 in Bankr. Case No. 06-10077 (CSS));
12. Debtor, Nellson Nutraceutical Powder Division, Inc.'s Statement of Financial Affairs, filed 2/28/06 (5 in Bankr. Case No. 06-10077 (CSS));
13. Debtor, Vitex Foods, Inc.'s Schedules of Assets and Liabilities, filed 2/28/06 (4 in Bankr. Case No. 06-10078 (CSS));
14. Debtor, Vitex Foods, Inc.'s Statement of Financial Affairs, filed 2/28/06 (5 in Bankr. Case No. 06-10078 (CSS));
15. Motion for Entry of an Order Authorizing and Approving Payments under Management Incentive Plan, filed 5/12/06 (334);
16. Debtor, Nellson Nutraceutical, Inc.'s Amended Schedules of Assets and Liabilities, filed 2/28/06 (335);
17. Debtor, Nellson Nutraceutical, Inc.'s Amended Statement of Financial Affairs, filed 2/28/06 (336);
18. Debtor, Nellson Holdings, Inc.'s Amended Statement of Financial Affairs, filed 2/28/06 (339, 7 in Bankr. Case No. 06-10073 (CSS));
19. Debtor, Nellson Intermediate Holdings, Inc.'s Amended Statement of Financial Affairs, filed 2/28/06 (340, 7 in Bankr. Case No. 06-10074 (CSS));
20. Debtor, Nellson Northern Operating, Inc.'s Amended Statement of Financial Affairs, filed 2/28/06 (341, 10 in Bankr. Case No. 06-10076 (CSS));
21. Debtor, Nellson Northern Operating, Inc.'s Amended Schedules of Assets and

- Liabilities, filed 2/28/06 (342, 9 in Bankr. Case No. 06-10075 (CSS));
22. Debtor, Nellson Nutraceutical Eastern Division, Inc.'s Amended Statement of Financial Affairs, filed 2/28/06 (343, 7 in Bankr. Case No. 06-10076 (CSS));
 23. Debtor, Nellson Nutraceutical Powder Division, Inc.'s Amended Statement of Financial Affairs, filed 2/28/06 (344, 10 in Bankr. Case No. 06-10077 (CSS));
 24. Debtor, Nellson Nutraceutical Powder Division, Inc.'s Amended Schedules of Assets and Liabilities, filed 2/28/06 (345, 9 in Bankr. Case No. 06-10077 (CSS));
 25. Debtor, Vitex Foods, Inc.'s Amended Statement of Financial Affairs, filed 2/28/06 (346, 7 in Bankr. Case No. 06-10078 (CSS));
 26. Objection of the Official Committee of Unsecured Creditors to Motion for Entry of an Order Authorizing and Approving Payments under Management Incentive Plan, filed 5/30/06 (390);
 27. United States Trustee's Objection to Motion for Entry of an Order Authorizing and Approving Payments under Management Incentive Plan, filed 05/30/06 (392);
 28. Notice of Agenda of Matters Scheduled for Hearing on June 6, 2006 at 3:00 p.m., filed 6/02/06 (404);
 29. Amended Notice of Agenda of Matters Scheduled for Hearing on June 6, 2006 at 3:00 p.m., filed 6/02/06 (411);
 30. Reply Memorandum in Support of Motion for Entry of an Order Authorizing and Approving Payments under Management Incentive Plan, filed 6/16/06 (428);
 31. Notice of Agenda of Matters Scheduled for Hearing on June 28, 2006 at 10:30 a.m., filed 6/26/06 (446);
 32. Amended Notice of Agenda of Matters Scheduled for Hearing on June 28, 2006 at 10:30 a.m., filed 6/26/06 (449);
 33. Notice of Service of Debtors' Exhibits to Motion of the Debtors for Entry of an Order Authorizing and Approving Payments under Management Incentive Plan, filed 7/06/06 (457);
 34. Notice of Agenda of Matters Scheduled for Hearing on July 10, 2006 at 1:30 p.m., filed 7/06/06 (458);
 35. Notice of Service of Joint Exhibits of the Official Committee of Unsecured Creditors

and the Office of United States Trustee to Debtors' Motion for Entry of an Order Authorizing and Approving Payments under Management Incentive Plan, filed 7/06/06 (459);

36. Certification of Counsel in Support of Order Authorizing and Approving Payments under Management Incentive Plan, filed 7/17/06 (480);
37. Order Authorizing and Approving Payments under Management Incentive Plan, entered 7/18/06 (482);
38. Transcript of Hearing held on July 10, 2006 before the Honorable Christopher S. Sontchi, filed 7/21/06 (495);
39. Transcript of Hearing held on July 13, 2006 before the Christopher S. Sontchi (TBD);
40. Total Cash Compensation Analysis Prepared by FTI [**Joint Trial Exhibit 1**];
41. Total Cash Compensation Analysis Prepared by FTI [**Joint Trial Exhibit 2**];
42. Executive Compensation Assessor Individual Position Profiles (Summaries) [**Joint Trial Exhibit 4**];
43. Executive Compensation Assessor Individual Position Profiles (Full Documents) [**Joint Trial Exhibit 5**];
44. Debtors' 2005 Bonus Program dated April 2005 [**Joint Trial Exhibit 6**];
45. Debtors' Undisclosed 2006 Bonus dated April 2006 [**Joint Trial Exhibit 9**];
46. Management Incentive Plan dated April 2006 [**Joint Trial Exhibit 20**];
47. Key Employee Retention Plan dated December 2005 [**Joint Trial Exhibit 21**];
48. ERI Executive Compensation Assessor & Survey Methodology [**Joint Trial Exhibit 32**];
49. Board Meeting Minutes dated April 21, 2006, December 19, 2005, December 21, 2005 [**Joint Trial Exhibit 33 (partial) Bates Nos. 324-326, 329**];
50. Dias Memorandum dated March 10, 2006 [**Joint Trial Ex. 36 (partial) Bates Nos. 393 -394**];
51. Exhibit A to Key Employee Retention Plan [**Joint Trial Exhibit 38**];

52. United States Trustee's Notice of Appeal from Order Authorizing and Approving Payments under Management Incentive Plan, filed 7/27/06 (517);
53. Official Committee of Unsecured Creditors' Notice of Appeal from Order Authorizing and Approving Payments under Management Incentive Plan, filed 7/28/06 (518);
54. Copy of the docket entries in the above-captioned case.

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B. Statement of the Issue to Be Presented

Whether the United States Bankruptcy Court for the District of Delaware erred in finding that the purpose of the management incentive plan was not to induce management to remain at the debtor.

Respectfully submitted,

KELLY BEAUDIN STAPLETON
UNITED STATES TRUSTEE

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